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7  
8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 MICHELLE McCANN, an individual,  
11 Plaintiff,

12 vs.

13 CINDERLITE TRUCKING CORPORATION,  
a domestic corporation.

14 Defendant.

CASE NO: 3:20-cv-583

**COMPLAINT**  
**JURY DEMAND**

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16  
17 COMES NOW Plaintiff MICHELLE McCANN, by and through her counsel, William J.  
18 Geddes, Esq. and Kristen R. Geddes, Esq. of THE GEDDES LAW FIRM, P.C., and hereby complains  
19 of Defendant CINDERLITE TRUCKING CORPORATION as follows.

20 **I.**

21 **STATEMENT OF THE CASE**

22 This is an employment discrimination case arising under Title VII of the Civil Rights Act of  
23 1964 and Nevada state law. McCANN alleges herein that Defendant subjected McCANN to sexual  
24 harassment that created a hostile work environment and retaliated against her when she complained  
25 about the harassment. McCANN seeks monetary, equitable, and injunctive relief.

26 **II.**

27 **JUISDICTION AND VENUE**

28 1. The federal claims of this case are maintained pursuant to 28 U.S.C. § 1331. In

1 particular, this case asserts claims, actionable under Title VII of the Civil Rights Act of 1964, as  
2 amended, 42 U.S.C. § 2000e-3 *et seq.* This Court has supplemental jurisdiction over the state-law  
3 claims pursuant to 28 U.S.C. § 1367(a).

4 2. Venue is proper in the U.S. District Court situated in Reno, Nevada, under Local Rule  
5 IA 1-6 and 28 U.S.C. § 1391(b) because this Court is located in the “unofficial Northern Division,”  
6 embracing the City of Carson, Nevada, and because:

7 (a) Venue is proper in a judicial district in which a substantial part of the events or  
8 omissions giving rise to the claims of the case occurred, or where any defendant resides; and,

9 (b) The unlawful employment practices were committed in Carson City, Nevada.

### 10 III.

#### 11 PARTIES

12 3. At all relevant times herein, Plaintiff MICHELLE McCANN (“McCANN”) was a  
13 citizen of the state of Nevada, residing in Carson City, Nevada, and she was employed by Defendant  
14 CINDERLITE TRUCKING COPORATION.

15 4. At all relevant times herein, Defendant CINDERLITE TRUCKING COPORATION  
16 (“CINDERLITE”) was a domestic corporation doing business in Carson City, Nevada, as a supplier of  
17 landscape materials such as sand, gravel, topsoil, bark, boulders and decorative rock, and was  
18 Plaintiff’s employer, pursuant to Title VII of the Civil Rights act of 1964 (as amended),  
19 42 U.S.C. § 2000, *et seq.*

### 20 IV.

#### 21 GENERAL ALLEGATIONS COMMON TO ALL CLAIMS

22 5. McCANN was hired by Defendant CINDERLITE and began work on or around August  
23 14, 2019.

24 6. McCANN’s job consisted of working in two areas of Defendant CINDERLITE’s  
25 operations: first, McCann worked as a scale operator in the scale house on Wednesdays and Thursdays  
26 and ½ day every other Saturday from 7:00 a.m. to 3:30 p.m., where she weighed third-parties’  
27 landscape materials for invoicing. Second, McCann worked Mondays, Thursdays and Fridays  
28 from 8:00 a.m. to 5:00 p.m. in the office answering phones, filing and assisting customers.

1           7.       On or about McCANN's second or third day of work, another Defendant CINDERLITE  
2 employee – a driver named Guy Snyder, asked McCANN words to the effect of “whether she had had  
3 the pleasure of meeting Wes, yet.” McCANN responded that she had not.

4           8.       Not long after Guy Snyder's comments to McCANN, McCANN did meet “Wes,” a  
5 driver for a third-party trucking company called Reno Rock Transport.

6           9.       The first time McCANN met Wes, Wes did not sexually harass McCANN.

7           10.      McCANN asked a different employee of Defendant CINDERLITE who went by  
8 “Walter,” about Guy Snyder's comment about Wes, and Walter confirmed that Wes had a reputation  
9 for crude or sexually harassing behavior.

10          11.      On or around Wednesday, September 18, 2019, Wes, came into the scale house around  
11 3:00 p.m. near the end of McCANN's shift.

12          12.      Wes asked McCANN if she had been getting her “pipes cleaned,” which McCANN  
13 interpreted to mean having sex, stated that McCann should be having sex with him every morning, and  
14 then Wes proceeded grope McCANN's breasts from behind under the pretense of giving her a hug.

15          13.      McCANN was shaken and stunned by Wes' actions, and as she tried to write out the  
16 weight ticket for Wes' material load, McCANN made errors in the calculations, which she tried to  
17 correct by crossing out incorrect calculations and making new entries on the weight ticket. McCANN  
18 was able to finish her shift, which ended about 30 minutes later, and she left for the day without  
19 reporting the incident because she was fearful about losing her job, having only worked for Defendant  
20 for a few weeks.

21          14.      The next day, on or around Thursday, September 19, 2019, Jennifer Glanzmann  
22 (“Glanzmann”), president of Defendant CINDERLITE, was invoicing weight tags from the prior day  
23 and noticed the crossed-out information on McCANN's ticket from the day before.

24          15.      Glanzmann asked Bob Roll (“Roll”), a manager for the yard to ask McCANN about the  
25 errors on the tag.

26          16.      Roll asked McCANN about the ticket and she told Roll about the incident with Wes  
27 the prior day. After speaking to McCANN, Roll and Glanzmann met and decided to terminate  
28

1 McCANN from the scale operator position and to assign McCANN's duties to another employee named  
2 Crystal.

3 17. McCANN was told the reason her scale house duties were being given to Crystal was  
4 because it was the slow season for construction, which reason was a pretext to mask Defendant  
5 CINDERLITE's retaliation against McCANN.

6 18. When McCANN reported to work the next day, on or around Friday, September 20,  
7 2019, McCANN also filed a written complaint about the sexual harassment by Wes.

8 19. The termination of McCANN's scale house duties and position caused her to be  
9 demoted from full-time to part-time, as she would only be working three days per week in the office.

10 20. On or around Monday, September 23, 2020, McCANN spoke to Glanzmann in the  
11 office and objected to the removal of her scale house duties and position, and requested additional  
12 hours or that her scale house position be restored and that she not be subjected to further sexual  
13 harassment from Wes.

14 21. Janice Buckley, who is the Secretary and Treasurer for Defendant CINDERLITE and  
15 who is also Glanzmann's sister, overheard this conversation, came into the common area where  
16 McCANN and Glanzmann were speaking, and told McCANN to "leave the office or you know the  
17 consequences."

18 22. McCANN interpreted Buckley's edict to mean that McCANN would be terminated if  
19 she persisted in objecting to Defendant CINDERLITE's retaliation against her by the removal of her  
20 duties and demotion for reporting sexual harassment.

21 23. After Buckley stated this, McCANN left the work premises around lunchtime and e-  
22 mailed Glanzmann that she would return once prompt, appropriate and corrective action were taken by  
23 Defendant CINDERLITE to cure the hostile work environment the ensuing retaliatory demotion.

24 24. McCANN was constructively discharged on or around September 23, 2019.

25 25. On or after McCANN was constructively discharged, Defendant CINDERLITE, through  
26 its officers, managing agents and/or supervisors created false *Incident Reports* to state that McCANN  
27 had performance issues in the scale house in order to "paper" McCANN's personnel file and to create  
28 additional pretext to mask Defendant's retaliation against McCANN.

26. On or around September 23, 2019, McCANN timely submitted, or caused to be submitted a charge of unlawful discrimination the Equal Opportunity Commission (“EEOC”) in EEOC Claim No. 550-2019-02075, which alleged violations of Title VII sexual harassment hostile work environment and retaliation.

27. On July 24, 2020, the EEOC issued a “right-to-sue letter” for the harassment and retaliation claims of this case, set forth in EEOC Claim No. 550-2019-02075 pursuant to 42 U.S.C. § 2000e-5(f), and McCANN timely filed the instant suit within ninety (90) days of the receipt of this “right-to-sue letter.”

### ***FEDERAL CLAIMS***

#### **V.**

#### **FIRST CLAIM FOR RELIEF SEXUAL HARASSMENT**

**(Title VII - 42 U.S.C. § 2000e-2 *et seq.*)**

28. McCANN incorporates by reference all prior allegations of this *Complaint*, as though fully set forth herein.

29. McCANN is a person entitled to the protection under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2 *et seq.*

30. Defendant CINDERLITE is an employer having at least fifteen employees, which had a legal obligation, pursuant to Title VII, 42 U.S.C. § 2000e-2 *et seq.*, as amended, and its own internal policies, to maintain a workplace free from unlawful sexual harassment and hostile work environment.

31. McCANN was subjected to unwelcome, offensive and harassing sexually discriminatory conduct during her employment with Defendant CINDERLITE and this conduct was based upon and directed at McCANN by reason of her gender.

32. McCANN notified Defendant CINDERLITE, which was otherwise aware, of the sexually harassing and discriminatory conduct of “Wes,” but Defendant CINDERLITE failed to take any appropriate corrective action.

33. The conduct of “Wes” was open and obvious to other employees, including non-management and management, to include Bob Roll and others.

34. This sexually harassing and discriminatory conduct was sufficiently severe and pervasive so as to unreasonably interfere with McCANN's physical health and work performance, so as to create an intimidating, hostile and offensive working environment.

35. As a direct and proximate result of the harassing and hostile sexual environment of Defendant CINDERLITE, including through its employees and agents and third-parties, McCANN has suffered, and continues to suffer, economic losses, including lost wages and benefits, back pay, front pay, physical and emotional harm, including mental anguish, inconvenience, and the loss of enjoyment of life, for which McCANN is entitled to compensatory and equitable damages, in an amount to be proven at trial.

36. Defendant CINDERLITE's conduct, including through its employees and agents, was willful, malicious, and/or engaged in with a reckless indifference to the health, safety, wellbeing, and federally-protected rights of McCANN—including because Defendant summarily removed McCANN's duties, demoted her then constructively discharged McCANN and created false allegations of performance issues after she pursued her rights — warranting an award of punitive damages, to punish Defendant CINDERLITE, in an amount determined by a jury at trial, according to law.

37. As a result of such intentional, unlawful, and discriminatory conduct against McCANN by Defendant CINDERLITE, including through its employees and agents, McCANN has had to retain the services of attorneys in this matter, and therefore, is entitled to, and seeks reimbursement for, her attorneys' fees and costs, her expert-witness fees, and her court costs, in an amount to be proven at trial.

38. As a result of such intentional, unlawful, and discriminatory conduct against McCANN by Defendant CINDERLITE, including through its employees and agents, McCANN is entitled to, and seeks, declaratory relief, in the form of a declaration by this Court, that Defendant CINDERLITE violated McCANN's rights.

## VI.

### SECOND CLAIM FOR RELIEF RETALIATION

(Title VII - 42 U.S.C. § 2000e-3 *et seq.*)

39. McCANN incorporates by reference all prior allegations of this *Complaint*, as though

1 fully set forth herein.

2 40. As alleged herein, Defendant CINDERLITE, by and through its officers, managing  
3 agents and/or its supervisors, illegally retaliated against McCANN by removing her duties and  
4 terminating her from the scale house position resulting in her demotion, constructively discharging her  
5 and subjecting her to false allegations of performance issues, solely because she had reported the  
6 aforementioned sex discrimination. Defendant CINDERLITE had no legitimate reasons for any such  
7 act. Each said act is in violation of the anti-retaliation provisions of 42 U.S.C. § 2000e-3 *et seq.*

8 41. As a direct and proximate result of the Defendant CINDERLITE, including through its  
9 employees and agents and third-parties, intentional discrimination and retaliation, McCANN has  
10 suffered, and continues to suffer, economic losses, including lost wages and benefits, back pay, front  
11 pay, physical and emotional harm, including mental anguish, inconvenience, and the loss of enjoyment  
12 of life, for which McCANN is entitled to compensatory and equitable damages, in an amount to be  
13 proven at trial.

14 42. Defendant CINDERLITE's conduct, including through its employees and agents, was  
15 willful, malicious, and/or engaged in with a reckless indifference to the health, safety, wellbeing, and  
16 federally-protected rights of McCANN—including because Defendant summarily removed  
17 McCANN's duties, demoted her, constructively discharged and created false performance reports about  
18 McCANN after she pursued her rights — warranting an award of punitive damages, to punish  
19 Defendant CINDERLITE, in an amount determined by a jury at trial, according to law.

20 43. As a result of such intentional, unlawful, and discriminatory conduct against McCANN  
21 by Defendant CINDERLITE, including through its employees and agents, McCANN has had to retain  
22 the services of attorneys in this matter, and therefore, is entitled to, and seeks reimbursement for, her  
23 attorneys' fees and costs, her expert-witness fees, and her court costs, in an amount to be proven at trial.

24 44. As a result of such intentional, unlawful, and discriminatory conduct and retaliation  
25 against McCANN by Defendant CINDERLITE, including through its employees and agents, McCANN  
26 is entitled to, and seeks, declaratory relief, in the form of a declaration by this Court, that Defendant  
27 CINDERLITE violated McCANN's rights.

28 ...

**STATE CLAIMS**

**VII.**

**THIRD CLAIM FOR RELIEF**

**(NRS 613.330)  
SEXUAL HARASSMENT**

45. McCANN incorporates by reference all prior allegations of this *Complaint*, as though fully set forth herein.

46. McCANN is a person entitled to the protection under Nevada's anti-discrimination statute, NRS § 613.330 *et seq.*

47. Defendant CINDERLITE is an employer having at least fifteen employees, which had a legal obligation, pursuant to NRS 613.330, and its own internal policies, to maintain a workplace free from unlawful sexual harassment and hostile work environment.

48. McCANN was subjected to unwelcome, offensive and harassing sexually discriminatory conduct during her employment with Defendant CINDERLITE and this conducted was based upon and directed at McCANN by reason of her gender.

49. McCANN notified Defendant CINDERLITE, which was otherwise aware, of the sexually harassing and discriminatory conduct of "Wes," but Defendant CINDERLITE filed to take any appropriate corrective action.

50. The conduct of "Wes" was open and obvious to other employees, including non-management and management, to include Bob Roll and others.

51. This sexually harassing and discriminatory conduct was sufficiently severe and pervasive so as to unreasonably interfere with McCANN's physical health and work performance, so as to create an intimidating, hostile and offensive working environment.

52. As a direct and proximate result of the harassing and hostile sexual environment of Defendant CINDERLITE, including through its employees and agents and third-parties, McCANN has suffered, and continues to suffer, economic losses, including lost wages and benefits, back pay, front pay, physical and emotional harm, including mental anguish, inconvenience, and the loss of enjoyment of life, for which McCANN is entitled to compensatory and equitable damages, in an amount to be



1 proven at trial.

2 53. Defendant CINDERLITE's conduct, including through its employees and agents, was  
3 willful, malicious, and/or engaged in with a reckless indifference to the health, safety, wellbeing, and  
4 federally-protected rights of McCANN—including because Defendant summarily removed  
5 McCANN's duties, demoted her, constructively discharged her and subjected her to false allegations of  
6 performance issues after she pursued her rights — warranting an award of punitive damages, to punish  
7 Defendant CINDERLITE, in an amount determined by a jury at trial, according to law.

8 54. As a result of such intentional, unlawful, and discriminatory conduct against McCANN  
9 by Defendant CINDERLITE, including through its employees and agents, McCANN has had to retain  
10 the services of attorneys in this matter, and therefore, is entitled to, and seeks reimbursement for, her  
11 attorneys' fees and costs, her expert-witness fees, and her court costs, in an amount to be proven at trial.

12 55. As a result of such intentional, unlawful, and discriminatory conduct against McCANN  
13 by Defendant CINDERLITE, including through its employees and agents, based on or motivated by  
14 McCANN's sex, McCANN is entitled to, and seeks, declaratory relief, in the form of a declaration by  
15 this Court, that Defendant CINDERLITE violated McCANN's rights.

## 16 VIII.

### 17 FOURTH CLAIM FOR RELIEF

#### 18 (NRS 613.340) 19 RETALIATION

20 56. McCANN incorporates by reference all prior allegations of this *Complaint*, as though  
21 fully set forth herein.

22 57. As alleged herein, Defendant CINDERLITE, by and through its officers, managing  
23 agents and/or its supervisors, illegally retaliated against McCANN by removing her duties and  
24 terminating her from the scale house position resulting in her demotion, subjecting her to false  
25 allegations of performance issues and constructively discharging her solely because she had reported  
26 the aforementioned sex discrimination. Defendant CINDERLITE had no legitimate reasons for any  
27 such act. Each said act is in violation of the anti-retaliation provisions of NRS 613.340.

28 58. As a direct and proximate result of the Defendant CINDERLITE, including through its

employees and agents and third-parties, intentional discrimination and retaliation, McCANN has suffered, and continues to suffer, economic losses, including lost wages and benefits, back pay, front pay, physical and emotional harm, including mental anguish, inconvenience, and the loss of enjoyment of life, for which McCANN is entitled to compensatory and equitable damages, in an amount to be proven at trial.

59. Defendant CINDERLITE's conduct, including through its employees and agents, was willful, malicious, and/or engaged in with a reckless indifference to the health, safety, wellbeing, and federally-protected rights of McCANN—including because Defendant summarily removed McCANN's duties, demoted her, constructively discharged and subjected her to false allegations of performance issues after she pursued her rights — warranting an award of punitive damages, to punish Defendant CINDERLITE, in an amount determined by a jury at trial, according to law.

60. As a result of such intentional, unlawful, and discriminatory conduct against McCANN by Defendant CINDERLITE, including through its employees and agents, McCANN has had to retain the services of attorneys in this matter, and therefore, is entitled to, and seeks reimbursement for, her attorneys' fees and costs, her expert-witness fees, and her court costs, in an amount to be proven at trial.

61. As a result of such intentional, unlawful, and discriminatory conduct and retaliation against McCANN by Defendant CINDERLITE, including through its employees and agents, McCANN is entitled to, and seeks, declaratory relief, in the form of a declaration by this Court, that Defendant CINDERLITE violated McCANN's rights.

## IX.

### PRAYER FOR RELIEF

WHEREFORE, McCANN prays for judgment against Defendant CINDERLITE, as follows:

1. For equitable relief, including back pay and front pay;
2. For general, compensatory damages on all claims, in an amount to be proven at trial;
3. For special, compensatory damages on all claims, in an amount to be proven at trial;
4. For past and future compensatory damages, including incidental and consequential losses, incurred by reason of Defendant's acts, omissions, carelessness, negligence, deliberate indifference, and other culpable conduct described herein, in an amount to be

1 proven at trial;

2 5. For exemplary and punitive damages, as allowed by law;

3 6. For costs of the suit incurred herein;

4 7. For attorneys' fees, costs, and prejudgment interest, as allowed by law;

5 8. For experts' fees, costs as allowed by law, in an amount in an amount to be determined  
6 at trial;

7 9. For Declaratory relief, equitably determined by the Court at trial. Pursuant to 28 U.S.C.  
8 § 2201, Federal Rule of Civil Procedure 57, 42 U.S.C. §§ 2000e-5, NRS 30.070, NRS  
9 30.100, NRS 613.333, and the Court's inherent equitable powers, McCANN seeks, and  
10 is entitled to have, declaratory relief awarded in his favor, to declare his rights and the  
11 obligations of Defendant CINDERLITE, which matters are now in controversy or  
12 dispute, where such declaratory relief is necessary and proper to the termination of the  
13 disputes raised herein, including as specifically prayed for below, including declaratory  
14 relief whereby the Court issues a declaration that Defendant CINDERLITE unlawfully  
15 discriminated against McCANN in violation of the Title VII and NRS 613.330, and  
16 otherwise violated McCANN's rights under federal law and state law, as alleged herein,  
17 and regarding the rights and obligations of the parties, relating to McCANN's  
18 employment and re-employment;

19 10. Based on the foregoing, McCANN has suffered an irreparable injury, and the remedies  
20 available at law, such as monetary damages, are inadequate to compensate for that  
21 injury. This inadequacy is, in part, based on the fact that Defendant CINDERLITE are  
22 currently maintaining false and disparaging information about McCANN's work  
23 performance and tenure at Defendant CINDERLITE, which will be discovered by third  
24 parties, including prospective employers of McCANN, which will interfere with his  
25 ability to obtain employment, including re-employment at Defendant CINDERLITE. As  
26 such McCANN is entitled to injunctive relief, including an injunction compelling  
27 Defendant:

28 (a) To remove false, adverse information contained in her personnel files relating to

1 the claims of this case;

2 (b) To provide only a “neutral” job reference concerning McCANN’s tenure at  
3 Defendant CINDERLITE, to all inquiring prospective employers; and

4 (c) To reinstate McCANN’s employment at CINDERLITE, if feasible and  
5 appropriate, with full pay and benefits, as if never terminated.

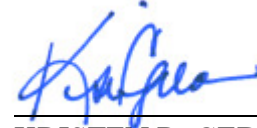
6 Considering the balance of hardships between Plaintiff and Defendant, a remedy in equity is  
7 warranted, and the public interest would not be disserved by issuance of such injunctive relief.  
8 McCANN herein seeks Injunctive relief, equitably determined by the Court at trial;

9 11. For such other relief as the Court may deem just and proper; and

10 12. Pursuant to the *Federal Rules of Civil Procedure*, Rule 38, Plaintiff demands a trial by  
11 jury on all issues triable by right of a jury.

12  
13 Dated this 14<sup>th</sup> Day of October 2020.

THE GEDDES LAW FIRM, P.C.

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